IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION

HARRY W. SIMMONS **PLAINTIFF**

VERSUS **CAUSE NO.** 3:17cv044-MPM-JMV

PANOLA COUNTY, MISSISSIPPI,
JOHN THOMAS and COLE FLINT,
In Their Individual Capacities, **DEFENDANT**

JURY TRIAL DEMANDED

COMPLAINT

This is an action to recover actual damages against the individual Defendant Panola County, Mississippi for violation of First Amendment rights, and to recover actual and punitive damages against Defendants Thomas and Flint for malicious interference with employment. The following facts support this action:

1.

Plaintiff HARRY W. SIMMONS is an adult resident citizen of 494 Hunters Parkway, Batesville, Mississippi 38606.

2.

Defendant PANOLA COUNTY, MISSISSIPPI (hereinafter "Defendant County") is a political subdivision of the State of Mississippi. Defendant County may be served with process upon its Chancery Clerk, Jim Pitcock, at 151 Public Square, Suite B, Batesville, Mississippi 38606. Defendant County is sued for official board policy decisions.

Defendant JOHN THOMAS (hereinafter "Defendant Thomas") is an adult resident citizen of Mississippi. Defendant Thomas may be served with process at 151 Public Square, Suite B, Batesville, Mississippi 38606. Defendant Thomas is a member of the Panola County Board of Supervisors.

Defendant COLE FLINT is (hereinafter "Defendant Flint") an adult resident citizen of Mississippi. Defendant Flint may be served with process at 151 Public Square, Suite B, Batesville, Mississippi 38606. Defendant Flint is president of the Panola County Board of Supervisors.

3.

This Court has federal question jurisdiction under 28 U.S.C. § 1331 and civil rights jurisdiction under 28 U.S.C. § 1343, for a cause of action arising under United States Constitution Amendment One. The action is authorized by 42 U.S.C. § 1983. At all relevant times, Defendant County acted under color of state law.

4.

Plaintiff served for approximately eleven (11) years as Executive Director of the Panola Partnership, Inc. Panola Partnership, Inc. is non-profit corporation, which is funded, in part, by the Panola County Board of Supervisors.

5.

Plaintiff had no issues about his employment until September 2016, when he sent a newsletter making the following statement:

> I would like to personally and publicly thank all of the Batesville City Board members for voting to support our funding request and four of our County supervisors for their vision and support for this year's funding request. Board President Cole Flint, James Birge, Vernice Avant, and Donald Phelps voting for the request with Board member John Thomas voting against. Personally, I cannot understand how any public elected official could not support economic development

> which means new jobs for our citizens and new investment for our county. But, I thank God for the others that did support our needs this year.

Excerpt from Partnership Progress Monthly Newsletter, September 2016, attached hereto as Exhibit "A."

6.

The above statement was a statement on a matter of public concern.

7.

Acting on behalf of the Panola County Board of Supervisors, Flint appeared before the Executive Board of Directors of the Panola Partnership, Inc. Flint persuaded the Panola Partnership, Inc. to discharge Plaintiff from his employment because of Plaintiff's exercise of First Amendment free speech rights. Specifically, Plaintiff's statements to the Executive Board of the Panola Partnership, Inc. caused Attorney Ryan Revere to draft an ultimatum stating that Plaintiff was voluntarily resigning under onerous and impossible conditions. Plaintiff could not sign this resignation agreement, attached hereto as Exhibit "B." Ultimately, Plaintiff was terminated.

8.

Plaintiff's termination was reported in the news media through the newspaper article attached hereto as Exhibit "C."

9.

The circumstances of Plaintiff's discharge has caused damage to his reputation, and mental anxiety and stress. Additionally, Plaintiff has suffered lost income.

10.

Plaintiff has filed a Notice of Claim as to the state law claim. A copy of this Notice of Claim is attached hereto as Exhibit "D."

11.

Defendant County is liable to Plaintiff for violation of Plaintiff's First Amendment right to free speech. Defendants Thomas and Flint are liable to Plaintiff for the supplemental state law claim of intentional and malicious interference with employment.

12.

Plaintiff has suffered mental anxiety and stress, and lost income as a result of Defendants' actions.

REQUEST FOR RELIEF

Plaintiff requests actual and punitive damages in an amount to be determined by a jury, reinstatement to his former position and reasonable attorneys' fees, costs and expenses.

Respectfully submitted, this the 23rd day of February, 2017.

WAIDE & ASSOCIATES, P.A.

BY: */s/ JIM WAIDE*
JIM WAIDE
MS BAR NUMBER 6857

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